

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NATASHA SEVERIN and GALINA
COTOVA, individually and on Behalf of
all others similarly situated,

No. 10 Civ. 9696(DLC)

Plaintiffs,

DECLARATION

- against -

PROJECT OHR, INC., METROPOLITAN
COUNCIL ON JEWISH POVERTY, and
D'VORAH KOHN,

Defendants.

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I, Blossom King, pursuant to 28 U.S.C. §1746, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct:

1. I am employed by Project OHR, Inc. (Project OHR) as a home attendant and the declarations I make below are true and correct to the best of my knowledge, information and belief.

2. For the last 26 years I have worked at Project OHR as a Home Attendant caring for many of its clients. I am generally familiar with the types of shifts available to work and how Project OHR staffs these shifts. I have worked sleep-in, split, and hourly shifts regularly over the years. Sometimes I work one or more of these types of shifts in the same workweek. Regardless of the type of shift or shifts I work each week, my main goal is always to care for the well-being of the client.

3. When I was first hired to work at Project OHR 26 years ago, I distinctly remember being told what a sleep-in shift was, including that it did not mean you worked the full 24 hours the shift was scheduled for, and that we were, as the name suggests,

supposed to sleep during the night while on the shift. I understood this and never expected to be paid for time that I was sleeping or not actually caring for the client at night.

4. At my orientation and again twice every year for the last 26 years I and the other home attendants have received training from union representatives and personnel specialists regarding our jobs and one of things they discussed at these sessions is the sleep-in shift. They always tell us, like I was told when I was first hired, that just because the shift was scheduled for 24 hours, did not mean that we were working the whole time, and that we were supposed to sleep at night. We were told that we had at least an eight hour window to sleep and should at least get five hours of sleep without being disturbed by the client. We also know that if we work a split-shift rather than a sleep-in shift, we are not allowed to sleep because a split shift is designed so that we can provide consistent care to the client during the night.

5. We were also trained twice a year that we are to report any sleeping or other nighttime issues to our supervisors – the nurses and personnel specialists. The nurses and personnel specialists constantly remind us of this throughout the year. They are emphatic about it. They tell us if we have any issue with a client, especially with respect to sleeping during a sleep-in shift we are to report it to them, so they can visit the client and resolve the issue and possibly recommend to HRA to authorize a conversion from sleep-in to split shift care.

6. Based on what I learned at the beginning of my employment, the orientation, at training sessions and what my supervisors tell me, I have always made sure that my clients and their families understand that I am not working 24 hours just because

a sleep-in shift lasts that long and that I expect to sleep at night. In fact, I stress to my clients that they get rest at night, and that they do not drink too many fluids before bed in order to avoid having to use the bathroom at night.

7. Each one of my clients is different and requires a different level of care depending on their physical and emotional state, whether they live with anyone else, and whether they have support from family members and friends. Further, their condition may improve or worsen over time, which further changes the level of care they need from me. Any home care attendant will tell you this.

8. My clients go to sleep and wake up at different times, and most of my clients sleep through the night. This is not surprising given their ages, that they take different medicines and that many are simply exhausted after a day's activities or tire after little activity easily. Even if they do wake up, many do not need my assistance, but rather just lie in bed before they fall back to sleep.

9. If one of my clients wakes up at night briefly to use the bathroom or because they need to be changed, I will assist them. Doing this takes just a couple of minutes of time. If a client has a real accident it may take a bit longer to help the client – like 15 minutes. I may also check on a client at night to see if they need to be changed. However, these types of interruptions do not prevent me from getting at least five hours of sleep during the nighttime without interruption.

10. If a client's condition worsens to the point that he or she actually needs more care at nighttime, then I immediately report it to my supervisor who will then ask HRA to authorize the client to receive split shift rather than sleep in care.

Dated: April 19, 2012
New York, New York

By: Blossom King
Blossom King